

APPEAL NO. 040997
FILED JUNE 23, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 1, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) reached maximum medical improvement (MMI) on October 23, 2000; that the claimant's impairment rating (IR) is 24%; that the claimant is entitled to supplemental income benefits (SIBs) for the first quarter; that the appellant (carrier) is not relieved of liability for SIBs because the claimant timely filed an Application for [SIBs] (TWCC-52) for the first quarter; and that the carrier did not waive its right to contest the claimant's entitlement to SIBs for the first quarter. The carrier appeals the hearing officer's determinations on the date of MMI, the IR, and entitlement to first quarter SIBs, asserting that if the Director of Hearings does not approve a Benefit Dispute Settlement (TWCC-25) signed by the parties, then the carrier requests that the Appeals Panel reverse the challenged findings and remand the issues to a CCH for development of the evidence. No response was received from the claimant. There is no appeal of the hearing officer's determinations that the carrier is not relieved of liability for SIBs because the claimant timely filed a TWCC-52 for the first quarter and that the carrier did not waive its right to contest the claimant's entitlement to SIBs for the first quarter and thus those determinations have become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

Settlements are addressed in Section 408.005 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 147.1 *et seq.* (Rule 147.1 *et seq.*) The hearing officer's resolution of the disputed issues regarding MMI, IR, and entitlement to first quarter SIBs was based on a TWCC-25 that was signed by the parties and the hearing officer on the date of the CCH. According to records of the Texas Workers' Compensation Commission (Commission), the Director of Hearings rejected the TWCC-25 on April 14, 2004. Since the TWCC-25 has been rejected by the Director of Hearings and since no evidence was taken on the disputed issues of MMI, IR, and entitlement to first quarter SIBs at the CCH, other than the TWCC-25, we believe that a reversal and remand is necessary in order for evidence to be developed on the appealed issues of MMI, IR, and first quarter SIBs, and for the hearing officer to issue a decision on those issues after consideration of the evidence to be developed at the CCH on remand. However, if the parties enter into another TWCC-25, and if it is approved by the Director of Hearings prior to the time a CCH on remand is held, it may not be necessary to hold the CCH on remand.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new

decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, as amended effective June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of time in which a request for appeal or a response must be filed.

The true corporate name of the insurance carrier is **THE PHOENIX INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge